

AMENDED IN SENATE MAY 1, 1997

AMENDED IN SENATE APRIL 7, 1997

SENATE BILL

No. 314

Introduced by Senator Ayala

February 11, 1997

An act to amend Sections 290 and 290.4 of the Penal Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

SB 314, as amended, Ayala. Sex offenders: registration.

Existing law requires any person who is convicted of specified sex offenses to register with local law enforcement officials upon release from confinement. Juveniles who are placed in the California Youth Authority for adjudication of specified sex offenses are also required to register pursuant to this provision. Failure to register is a crime.

This bill would require registration of all juveniles who are adjudicated for these specified sex offenses without regard to their placement. This bill would also make juveniles *who are not committed to the Department of the Youth Authority* subject to registration *only until age 25*, for most of the same offenses that subject adult offenders to registration. *The bill would provide for a procedure whereby these juveniles could apply for an exemption from the registration requirement.* By expanding the scope of an existing crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated

by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 290 of the Penal Code is
2 amended to read:

3 290. (a) (1) Every person described in paragraph
4 (2), for the rest of his or her life while residing in
5 California, shall be required to register with the chief of
6 police of the city in which he or she is domiciled, or the
7 sheriff of the county if he or she is domiciled in an
8 unincorporated area, and, additionally, with the chief of
9 police of a campus of the University of California, the
10 California State University, or community college if he or
11 she is domiciled upon the campus or in any of its facilities,
12 within five working days of coming into any city, county,
13 or city and county in which he or she temporarily resides
14 or is domiciled for that length of time. The person shall
15 be required annually thereafter, within five working days
16 of his or her birthday, to update his or her registration
17 with the entities described in this paragraph, including,
18 verifying his or her name and address on a form as may
19 be required by the Department of Justice.

20 (2) The following persons shall be required to register
21 pursuant to paragraph (1):

22 (A) Any person who, since July 1, 1944, has been or is
23 hereafter convicted in any court in this state or in any
24 federal or military court of a violation of subdivision (b)
25 of Section 207, kidnapping, as punishable pursuant to
26 subdivision (d) of Section 208, Section 220, except assault
27 to commit mayhem, Section 243.4, paragraph (1), (2),
28 (3), (4), or (6) of subdivision (a) of Section 261 or
29 paragraph (1) of subdivision (a) of Section 262 involving
30 the use of force or violence for which the person is
31 sentenced to the state prison, Section 264.1, 266, 266c,

1 266j, 267, 285, 286, 288, 288a, 288.5, or 289, subdivision (b),
2 (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10,
3 311.11, or 647.6, former Section 647a, subdivision (d) of
4 Section 647, subdivision 1 or 2 of Section 314, any offense
5 involving lewd and lascivious conduct under Section 272,
6 or any felony violation of Section 288.2; or any person who
7 since that date has been or is hereafter convicted of the
8 attempt to commit any of the above-mentioned offenses.

9 (B) Any person who, since July 1, 1944, has been or
10 hereafter is released, discharged, or paroled from a penal
11 institution where he or she was confined because of the
12 commission or attempted commission of one of the
13 offenses described in subparagraph (A).

14 (C) Any person who, since July 1, 1944, has been or
15 hereafter is determined to be a mentally disordered sex
16 offender under Article 1 (commencing with Section
17 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare
18 and Institutions Code.

19 (D) Any person who, since July 1, 1944, has been, or is
20 hereafter convicted in any other court, including any
21 federal or military court, of any offense which, if
22 committed or attempted in this state, would have been
23 punishable as one or more of the offenses described in
24 subparagraph (A).

25 (E) Any person ordered by any court to register
26 pursuant to this section for any offense not included
27 specifically in this section if the court finds at the time of
28 conviction that the person committed the offense as a
29 result of sexual compulsion or for purposes of sexual
30 gratification. The court shall state on the record the
31 reasons for its findings and the reasons for requiring
32 registration.

33 (b) Any person who is released, discharged, or paroled
34 from a jail, state or federal prison, school, road camp, or
35 other institution, including juvenile facilities or
36 institutions, where he or she was confined because of the
37 commission or attempted commission of one of the
38 offenses specified in subdivision (a) or is released from a
39 state hospital to which he or she was committed as a
40 mentally disordered sex offender under Article 1

1 (commencing with Section 6300) of Chapter 2 of Part 2
2 of Division 6 of the Welfare and Institutions Code, shall,
3 prior to discharge, parole, or release, be informed of his
4 or her duty to register under this section by the official in
5 charge of the place of placement, confinement, or
6 hospital, and the official shall require the person to read
7 and sign any form that may be required by the
8 Department of Justice, stating that the duty of the person
9 to register under this section has been explained to the
10 person. The official in charge of the place of placement,
11 confinement, or hospital shall obtain the address where
12 the person expects to reside upon his or her discharge,
13 parole, or release and shall report the address to the
14 Department of Justice. The official in charge of the place
15 of placement, confinement, or hospital shall give one
16 copy of the form to the person and shall send one copy to
17 the Department of Justice and one copy to the
18 appropriate law enforcement agency or agencies having
19 jurisdiction over the place the person expects to reside
20 upon discharge, parole, or release. If the conviction or
21 adjudication which makes the person subject to this
22 section is a felony conviction or adjudication, the official
23 in charge shall, not later than 45 days prior to the
24 scheduled release of the person, send one copy to the
25 appropriate law enforcement agency or agencies having
26 local jurisdiction where the person expects to reside upon
27 discharge, parole, or release; one copy to the prosecuting
28 agency that prosecuted the person; and one copy to the
29 Department of Justice. The official in charge of the place
30 of placement or confinement shall retain one copy.

31 (c) Any person who is convicted in this state of the
32 commission or attempted commission of any of the
33 offenses specified in subdivision (a) and who is released
34 on probation or discharged upon payment of a fine shall,
35 prior to release or discharge, be informed of the duty to
36 register under this section by the court in which the
37 person has been convicted or adjudged a ward of the
38 juvenile court, if fined, or by the person's probation
39 officer, if placed on probation, and the court shall require
40 the person to read and sign any form that may be required

1 by the Department of Justice, stating that the duty of the
2 person to register under this section has been explained
3 to him or her. The court or probation officer shall obtain
4 the address where the person expects to reside upon
5 release or discharge and shall report within three days the
6 address to the Department of Justice. The court or
7 probation officer shall give one copy of the form to the
8 person, send one copy to the Department of Justice, and
9 forward one copy to the appropriate law enforcement
10 agency or agencies having local jurisdiction where the
11 person expects to reside upon his or her discharge, parole,
12 or release.

13 (d) (1) Except as provided in paragraph (3), any
14 person who, on or after January 1, 1986, is adjudged a ward
15 of the juvenile court pursuant to Section 602 of the
16 Welfare and Institutions Code because of the commission
17 or attempted commission of any offense described in
18 paragraph (2) of subdivision (a) shall be subject to
19 registration under the procedures of this section.

20 (2) Except as provided in paragraph (3), any person
21 who, on or after January 1, 1995, pursuant to a proceeding
22 in another jurisdiction that is equivalent to a proceeding
23 under Section 602 of the Welfare and Institutions Code,
24 is found to have committed an offense which, if
25 committed or attempted in this state, would have been
26 punishable as one or more of the offenses described in
27 paragraph (2) of subdivision (a), shall be subject to
28 registration under the procedures of this section.

29 (3) Any person described in this subdivision who
30 committed an offense in violation of any of the following
31 provisions shall not be required to register: *Section 243.4*,
32 paragraph (1) of subdivision (a) of Section 262, Section
33 266, 266j, or 285, subdivision (b), (c), or (d) of Section
34 311.2, Section 311.3, 311.4, 311.10, or 311.11, subdivision 1
35 or 2 of Section 314, or subdivision (d) of Section 647.

36 (4) Prior to release on parole, discharge from
37 jurisdiction, or release from confinement, any person who
38 is subject to registration under this subdivision shall be
39 informed of the duty to register under the procedures set
40 forth in this section. The notifying officials shall transmit

1 the required forms and information to the Department
2 of Justice.

3 (5) All records specifically relating to the registration
4 in the custody of the Department of Justice, law
5 enforcement agencies, and other agencies or public
6 officials shall be destroyed when the person who is
7 required to register has his or her records sealed under
8 the procedures set forth in Section 781 of the Welfare and
9 Institutions Code. This subdivision shall not be construed
10 as requiring the destruction of other criminal offender or
11 juvenile records relating to the case that are maintained
12 by the Department of Justice, law enforcement agencies,
13 the juvenile court, or other agencies and public officials
14 unless ordered by a court under Section 781 of the
15 Welfare and Institutions Code.

16 (6) (A) *A person required to register as a sex offender*
17 *pursuant to this subdivision, who has not been committed*
18 *by the juvenile court to the custody of the Department*
19 *of the Youth Authority, shall be required to register only*
20 *until he or she attains 25 years of age. However, the*
21 *requirement to register pursuant to this subdivision shall*
22 *be suspended while a person is under the jurisdiction of*
23 *the juvenile court or while the person is participating in*
24 *a court-ordered sex offender treatment program. If the*
25 *requirement to register is suspended for a person*
26 *pursuant to this subparagraph, the probation officer of*
27 *the person shall notify, on a regular basis, the local law*
28 *enforcement agency of the residential location of the*
29 *person.*

30 (B) *Subject to the conditions set forth in subparagraph*
31 *(C), the juvenile court may exempt from the registration*
32 *requirements of this subdivision a person who has not*
33 *been committed to the custody of the Department of the*
34 *Youth Authority if the court, after considering the*
35 *recommendations of the district attorney, the probation*
36 *department, the person seeking the exemption, any*
37 *treatment program or clinical provider that has treated*
38 *or assessed the person, and any other person deemed by*
39 *the court to have information relevant to its decision,*
40 *finds all of the following:*



1 (i) The person poses no substantial risk of repeating
2 the sex offense for which he or she was adjudicated a ward
3 of the court, or of committing any sex offense, as
4 evidenced by any of the following:

5 (I) The successful completion of a sex offender
6 treatment program.

7 (II) Corroboration of the person's rehabilitation as a
8 sex offender by means of a clinical, psychiatric, or
9 psychological evaluation.

10 (III) Any other relevant evidence.

11 (ii) The exemption would facilitate the eligibility or
12 competitiveness of the person seeking the exemption to
13 be considered for employment, educational, or
14 vocational opportunities for which the person otherwise
15 would qualify and that the person otherwise would
16 pursue, including, but not limited to, the United States
17 military or Job Corps.

18 (iii) The person has not been adjudged to have
19 committed, nor been convicted of committing, any sexual
20 or violent offense subsequent to being adjudged a ward
21 of the court for committing the offense that subjected
22 him or her to the registration requirements of this
23 subdivision.

24 (C) Any exemption granted pursuant to subparagraph
25 (B) shall be conditioned upon the exempted person's
26 acceptance into and continuing participation in an
27 employment, educational, or vocational opportunity
28 pursuant to clause (ii) of subparagraph (B), and may be
29 revoked by the juvenile court, upon notice and a hearing,
30 if the person is not accepted into, is terminated from, or
31 otherwise is not participating in, the opportunity, or if the
32 person is adjudged to have committed or been convicted
33 of a sex offense subsequent to having been exempt from
34 the registration requirement.

35 (D) Any person granted an exemption pursuant to this
36 subdivision shall notify the juvenile court within 10 days
37 if he or she is not accepted into, is terminated from, or
38 otherwise is not participating in, the employment,
39 educational, or vocational program upon which the
40 exemption was based. Any person whose exemption has

1 *been revoked for reasons beyond his or her control, and*
2 *not as a result of misconduct, may reapply for an*
3 *exemption based on the conditions set forth in this*
4 *subdivision.*

5 (e) (1) The registration shall consist of all of the
6 following:

7 (A) A statement in writing signed by the person,
8 giving information as may be required by the
9 Department of Justice.

10 (B) The fingerprints and photograph of the person.

11 (C) The license plate number of any vehicle owned by
12 or registered in the name of the person.

13 (2) Within three days thereafter, the registering law
14 enforcement agency or agencies shall forward the
15 statement, fingerprints, photograph, and vehicle license
16 plate number, if any, to the Department of Justice.

17 (f) If any person who is required to register pursuant
18 to this section changes his or her name or residence
19 address, the person shall inform, in writing within five
20 working days, the law enforcement agency or agencies
21 with whom he or she last registered of the new name or
22 address. The law enforcement agency or agencies shall,
23 within three days after receipt of this information,
24 forward it to the Department of Justice. The Department
25 of Justice shall forward appropriate registration data to
26 the law enforcement agency or agencies having local
27 jurisdiction of the new place of residence.

28 (g) (1) Any person who is required to register under
29 this section based on a misdemeanor conviction or
30 adjudication who willfully violates this section is guilty of
31 a misdemeanor punishable by imprisonment in a county
32 jail not exceeding one year.

33 (2) Notwithstanding paragraph (1), any person who
34 has been convicted of, or adjudged a ward of the court for,
35 assault with intent to commit rape, oral copulation, or
36 sodomy under Section 220, any violation of Section 264.1
37 or 289 under Section 220, any violation of Section 261, any
38 offense defined in paragraph (1) of subdivision (a) of
39 Section 262 involving the use of force or violence for
40 which the person is sentenced to state prison, any

1 violation of Section 264.1, 286, 288, 288a, 288.5, or 289,
2 subdivision (b) of Section 207, or kidnapping, as
3 punishable pursuant to subdivision (d) of Section 208, and
4 who is required to register under this section who
5 willfully violates this section is guilty of a felony
6 punishable by imprisonment in the state prison for 16
7 months, or two or three years.

8 (3) Any person required to register under this section
9 based on a felony conviction or adjudication who willfully
10 violates this section or who has a prior conviction or who
11 has been adjudged a ward of the court for the offense of
12 failing to register under this section and who
13 subsequently and willfully commits that offense is, upon
14 each subsequent conviction or adjudication, guilty of a
15 felony and shall be punished by imprisonment in the state
16 prison for 16 months, or two or three years.

17 A person punished pursuant to this paragraph or
18 paragraph (2) shall be sentenced to serve a term of not
19 less than 90 days nor more than one year in a county jail.
20 In no event does the court have the power to absolve a
21 person who willfully violates this section from the
22 obligation of spending at least 90 days of confinement in
23 a county jail and of completing probation of at least one
24 year.

25 If the person has been sentenced to a term of
26 imprisonment in the state prison, the penalty described
27 in this paragraph shall apply whether or not the person
28 has been released on parole or has been discharged from
29 parole.

30 (4) If, after discharge from parole, the person is
31 convicted of a felony as specified in this subdivision, he or
32 she shall be required to complete parole of at least one
33 year, in addition to any other punishment imposed under
34 this subdivision. A person convicted of, or adjudged a
35 ward of the juvenile court for, a felony as specified in this
36 subdivision may be granted probation only in the unusual
37 case where the interests of justice would best be served.
38 When probation is granted under this paragraph, the
39 court shall specify on the record and shall enter into the

1 minutes the circumstances indicating that the interests of
2 justice would best be served by the disposition.

3 (h) Whenever any person is released on parole or
4 probation and is required to register under this section
5 but fails to do so within the time prescribed, the parole
6 authority, the Youthful Offender Parole Board, or the
7 court, as the case may be, shall order the parole or
8 probation of the person revoked. For purposes of this
9 subdivision, “parole authority” has the same meaning as
10 described in Section 3000.

11 (i) Except as provided in subdivisions (m) and (n) and
12 Section 290.4, the statements, photographs, and
13 fingerprints required by this section shall not be open to
14 inspection by the public or by any person other than a
15 regularly employed peace officer or other law
16 enforcement officer.

17 (j) In any case in which a person who would be
18 required to register pursuant to this section for a felony
19 conviction or adjudication is to be temporarily sent
20 outside the institution or juvenile facility where he or she
21 is confined on any assignment within a city or county
22 including firefighting, disaster control, or of whatever
23 nature the assignment may be, the local law enforcement
24 agency having jurisdiction over the place or places where
25 the assignment shall occur shall be notified within a
26 reasonable time prior to removal from the institution.
27 This subdivision shall not apply to any person who is
28 temporarily released under guard from the institution
29 where he or she is confined.

30 (k) As used in this section, “mentally disordered sex
31 offender” includes any person who has been determined
32 to be a sexual psychopath or a mentally disordered sex
33 offender under any provision which, on or before January
34 1, 1976, was contained in Division 6 (commencing with
35 Section 6000) of the Welfare and Institutions Code.

36 (l) (1) Every person who, prior to January 1, 1985, is
37 required to register under this section, shall be notified
38 whenever he or she next reregisters of the reduction of
39 the registration period from 30 to 14 days. This notice shall
40 be provided in writing by the registering agency or

1 agencies. Failure to receive this notification shall be a
2 defense against the penalties prescribed by subdivision
3 (g) if the person did register within 30 days.

4 (2) Every person who, prior to January 1, 1997, is
5 required to register under this section, shall be notified
6 whenever he or she next reregisters of the reduction of
7 the registration period from 14 to five working days. This
8 notice shall be provided in writing by the registering
9 agency or agencies. Failure to receive this notification
10 shall be a defense against the penalties prescribed by
11 subdivision (g) if the person did register within 14 days.

12 (m) (1) When a peace officer reasonably suspects,
13 based on information that has come to his or her attention
14 through information provided by any peace officer or
15 member of the public, that a child or other person may
16 be at risk from a sex offender convicted of a crime listed
17 in paragraph (1) of subdivision (a) of Section 290.4, a law
18 enforcement agency may, notwithstanding any other
19 provision of law, provide any of the information specified
20 in paragraph (2) of this subdivision about that registered
21 sex offender that the agency deems relevant and
22 necessary to protect the public, to the following persons,
23 agencies, or organizations the offender is likely to
24 encounter, including, but not limited to, the following:

25 (A) Public and private educational institutions, day
26 care establishments, and establishments and
27 organizations that primarily serve individuals likely to be
28 victimized by the offender.

29 (B) Other community members at risk.

30 (2) The information that may be disclosed pursuant to
31 this section includes the following:

32 (A) The offender's full name.

33 (B) The offender's known aliases.

34 (C) The offender's gender.

35 (D) The offender's race.

36 (E) The offender's physical description.

37 (F) The offender's photograph.

38 (G) The offender's date of birth.

39 (H) Crimes resulting in registration under this section.

1 (I) The offender's address, which must be verified
2 prior to publication.

3 (J) Description and license plate number of offender's
4 vehicles or vehicles the offender is known to drive.

5 (K) Type of victim targeted by the offender.

6 (L) Relevant parole or probation conditions, such as
7 one prohibiting contact with children.

8 (M) Dates of crimes resulting in classification under
9 this section.

10 (N) Date of release from confinement.

11 However, information disclosed pursuant to this
12 subdivision shall not include information that would
13 identify the victim.

14 (3) If a law enforcement agency discloses information
15 pursuant to this subdivision, it shall include, with the
16 disclosure, a statement that the purpose of the release of
17 the information is to allow members of the public to
18 protect themselves and their children from sex offenders.

19 (4) For purposes of this section, "likely to encounter"
20 means both of the following:

21 (A) That the agencies, organizations, or other
22 community members are in a location or in close
23 proximity to a location where the offender lives or is
24 employed, or that the offender visits or is likely to visit on
25 a regular basis.

26 (B) The types of interaction that ordinarily occur at
27 that location and other circumstances indicate that
28 contact with the offender is reasonably probable.

29 (5) For purposes of this section, "reasonably suspects"
30 means that it is objectively reasonable for a peace officer
31 to entertain a suspicion, based upon facts that could cause
32 a reasonable person in a like position, drawing when
33 appropriate on his or her training and experience, to
34 suspect that a child or other person is at risk.

35 (6) For purposes of this section, "at risk" means a
36 person is or may be exposed to a risk of becoming a victim
37 of a sex offense committed by the offender.

38 (7) A law enforcement agency may continue to
39 disclose information on an offender under this

1 subdivision for as long as the offender is included in
2 Section 290.4.

3 (n) In addition to the procedures set forth elsewhere
4 in this section, a law enforcement agency may advise the
5 public of the presence of high-risk sex offenders in its
6 community pursuant to this subdivision.

7 (1) For purposes of this subdivision:

8 (A) A high-risk sex offender is a person who has been
9 convicted of an offense for which registration is required
10 under paragraph (2) of subdivision (a) and also meets
11 one of the following criteria:

12 (i) Has been convicted of three or more violent sex
13 offenses, at least two of which were brought and tried
14 separately.

15 (ii) Has been convicted of two violent sex offenses and
16 one or more violent nonsex offenses, at least two of which
17 were brought and tried separately.

18 (iii) Has been convicted of one violent sex offense and
19 two or more violent nonsex offenses, at least two of which
20 were brought and tried separately.

21 (iv) Has been convicted of either two violent sex
22 offenses or one violent sex offense and one violent nonsex
23 offense, at least two of which were brought and tried
24 separately, and has been arrested on separate occasions
25 for three or more violent sex offenses, violent nonsex
26 offenses, or associated offenses.

27 (B) A violent sex offense means any offense defined in
28 Section 220, except attempt to commit mayhem, 261,
29 264.1, 286, 288, 288a, 288.5, 289, or 647.6, or infliction of
30 great bodily injury during the commission of a sex offense,
31 as provided in Section 12022.8.

32 (C) A violent nonsex offense means any offense
33 defined in Section 187, subdivision (a) of Section 192, 203,
34 206, 207, 236, provided that the offense is a felony,
35 subdivision (a) of Section 273a, 273d, or 451, or attempted
36 murder, as defined in Sections 187 and 664.

37 (D) An associated offense means any offense defined
38 in Section 243.4, provided that the offense is a felony,
39 Section 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, 311.7, 314,
40 459, provided the offense is of the first degree, 597, 646.9,

1 subdivision (d), (h), or (i) of Section 647, 653m, or
2 infliction of great bodily injury during the commission of
3 a felony, as defined in Section 12022.7.

4 (E) For purposes of subparagraphs (B) to (D),
5 inclusive, an arrest or conviction for the statutory
6 predecessor of any of the enumerated offenses, or an
7 arrest or conviction in any other jurisdiction for any
8 offense which, if committed or attempted in this state,
9 would have been punishable as one or more of the
10 offenses described in those subparagraphs, is to be
11 considered in determining whether an offender is a
12 high-risk sex offender.

13 (F) For purposes of subparagraphs (B) to (D),
14 inclusive, an arrest as a juvenile or an adjudication as a
15 ward of the juvenile court within the meaning of Section
16 602 of the Welfare and Institutions Code for any of the
17 offenses described in those subparagraphs is to be
18 considered in determining whether an offender is a
19 high-risk sex offender.

20 (G) Notwithstanding subparagraphs (A) to (D),
21 inclusive, an offender shall not be considered to be a
22 high-risk sex offender if either of the following apply:

23 (i) The offender's most recent conviction or arrest for
24 an offense described in subparagraphs (B) to (D),
25 inclusive, occurred more than five years prior to the
26 high-risk assessment by the Department of Justice,
27 excluding periods of confinement.

28 (ii) The offender notifies the Department of Justice,
29 on a form approved by the department and available at
30 any sheriff's office, that he or she has not been convicted
31 in the preceding 15 years, excluding periods of
32 confinement, of an offense for which registration is
33 required under paragraph (2) of subdivision (a), and the
34 department is able, upon exercise of reasonable diligence,
35 to verify the information provided in paragraph (2).

36 (H) "Confinement" means confinement in a jail,
37 prison, school, road camp, or other penal institution,
38 confinement in a state hospital to which the offender was
39 committed as a mentally disordered sex offender under
40 Article 1 (commencing with Section 6300) of Chapter 2

1 of Part 2 of Division 6 of the Welfare and Institutions
2 Code, or confinement in a facility designated by the
3 Director of Mental Health to which the offender was
4 committed as a sexually violent predator under Article 4
5 (commencing with Section 6600) of Chapter 2 of Part 2
6 of Division 6 of the Welfare and Institutions Code.

7 (I) “Law enforcement agency” means any of the
8 following: municipal police department; sheriff’s
9 department; district attorney’s office; county probation
10 department; Department of Justice; Department of
11 Corrections; Department of the Youth Authority;
12 Department of the California Highway Patrol; or the
13 police department of any campus of the University of
14 California or California State University, or community
15 college.

16 (2) The Department of Justice shall continually search
17 the records provided to it pursuant to subdivision (b) and
18 identify, on the basis of those records, high-risk sex
19 offenders. Four times each year, the department shall
20 provide to each chief of police and sheriff in the state, and
21 to any other law enforcement agency upon request, the
22 following information regarding each identified high-risk
23 sexual offender: full name; known aliases; gender; race;
24 physical description; photograph; date of birth; and
25 crimes resulting in classification under this section.

26 (3) The Department of Justice and any law
27 enforcement agency to which notice has been given
28 pursuant to paragraph (2) may cause to be made public,
29 by whatever means the agency deems necessary to
30 ensure the public safety, based upon information
31 available to the agency concerning a specific person,
32 including, but not limited to, the information described
33 in paragraph (2); the offender’s address, which shall be
34 verified prior to publication; description and license plate
35 number of the offender’s vehicles or vehicles the offender
36 is known to drive; type of victim targeted by the offender;
37 relevant parole or probation conditions, such as one
38 prohibiting contact with children; dates of crimes
39 resulting in classification under this section; and date of

1 release from confinement; but excluding information
2 that would identify the victim.

3 (o) Agencies disseminating information to the public
4 pursuant to subdivision (m) shall maintain records of the
5 offender and the means and dates of dissemination for a
6 minimum of five years.

7 (p) Law enforcement agencies, employees of law
8 enforcement agencies, and state officials shall be immune
9 from liability for good faith conduct under this section.

10 (q) Any person who uses information disclosed
11 pursuant to this section to commit a felony shall be
12 punished, in addition and consecutive to any other
13 punishment, by a five-year term of imprisonment in the
14 state prison. Any person who uses information disclosed
15 pursuant to this section to commit a misdemeanor shall be
16 subject to, in addition to any other penalty or fine
17 imposed, a fine of not less than five hundred dollars
18 (\$500) and not more than one thousand dollars (\$1,000).

19 (r) The registration and public notification provisions
20 of this section are applicable to every person described in
21 these sections, without regard to when his or her crimes
22 were committed or his or her duty to register pursuant to
23 this section arose, and to every offense described in these
24 sections, regardless of when it was committed.

25 SEC. 2. Section 290.4 of the Penal Code is amended to
26 read:

27 290.4. (a) (1) The Department of Justice shall
28 continually compile information as described in
29 paragraph (2) regarding any person required to register
30 under Section 290 for a conviction of subdivision (b) of
31 Section 207; kidnapping, as punishable pursuant to
32 subdivision (d) of Section 208; Section 220, except assault
33 to commit mayhem; Section 243.4, provided that the
34 offense is a felony; paragraph (1), (2), (3), (4), or (6) of
35 subdivision (a) of Section 261; Section 264.1; Section 266,
36 provided that the offense is a felony; Section 266c,
37 provided that the offense is a felony; Section 267;
38 paragraph (2) of subdivision (b), subdivision (c), (d), (f),
39 (g), (i), (j), or (k) of Section 286; Section 288; paragraph
40 (2) of subdivision (b), (c), (d), (f), (g), (i), (j), or (k) of



1 Section 288a; Section 288.5; subdivision (a), (b), (d), (e),
2 (f), (g), or (h) of Section 289, provided that the offense
3 is a felony; subdivision (i) or (j) of Section 289; Section
4 647.6; or the statutory predecessor of any of these offenses.
5 This requirement shall not be applied to a person whose
6 duty to register has been terminated pursuant to
7 paragraph (4) of subdivision (d) of Section 290, or to a
8 person who has been relieved of his or her duty to register
9 under Section 290.5.

10 (2) The information shall be categorized by
11 community of residence and ZIP Code. The information
12 shall include the names and known aliases of the person,
13 photograph, a physical description, gender, race, date of
14 birth, the criminal history, and the address, including ZIP
15 Code, in which the person resides, and any other
16 information that the Department of Justice deems
17 relevant, not including information that would identify
18 the victim.

19 (3) The department shall operate a “900” telephone
20 number that members of the public may call and inquire
21 whether a named individual is listed among those
22 described in this subdivision. The caller shall furnish his
23 or her first name, middle initial, and last name. The
24 department shall ascertain whether a named person
25 reasonably appears to be a person so listed and provide
26 the caller with the information described in paragraph
27 (2), except the department shall not disclose the street
28 address or criminal history of a person listed, except to
29 disclose the ZIP Code area in which the person resides
30 and to describe the specific crimes for which the
31 registrant was required to register. The department shall
32 decide whether the named person reasonably appears to
33 be a person listed, based upon information from the caller
34 providing information that shall include (A) an exact
35 street address, including apartment number, social
36 security number, California driver’s license or
37 identification number, or birth date along with additional
38 information that may include any of the following: name,
39 hair color, eye color, height, weight, distinctive markings,
40 ethnicity; or (B) any combination of at least six of the

1 above listed characteristics if an exact birth date or
2 address is not available. If three of the characteristics
3 provided include ethnicity, hair color, and eye color, a
4 seventh identifying characteristic shall be provided. Any
5 information identifying the victim by name, birth date,
6 address, or relation to the registrant shall be excluded by
7 the department.

8 (4) (A) On or before July 1, 1997, the department
9 shall provide a CD-ROM or other electronic medium
10 containing the information described in paragraph (2),
11 except the person's street address and criminal history
12 other than the specific crimes for which the person was
13 required to register, for all persons described in
14 paragraph (1) of subdivision (a), and shall distribute the
15 CD-ROM or other electronic medium on a quarterly basis
16 to the sheriff's department in each county, municipal
17 police departments of cities with a population of more
18 than 200,000, and each law enforcement agency listed in
19 subparagraph (I) of paragraph (1) of subdivision (n) of
20 Section 290. These law enforcement agencies may obtain
21 additional copies by purchasing a yearly subscription to
22 the CD-ROM or other electronic medium from the
23 Department of Justice for a yearly subscription fee. The
24 Department of Justice, the sheriff's departments, and the
25 municipal police departments of cities with a population
26 of more than 200,000 shall make, and the other law
27 enforcement agencies may make, the CD-ROM or other
28 electronic medium available for viewing by the public in
29 accordance with the following: The agency may require
30 that a person applying to view the CD-ROM or other
31 electronic medium express an articulable purpose in
32 order to have access thereto. The applicant shall provide
33 identification in the form of a California driver's license
34 or California identification card, showing the applicant to
35 be at least 18 years of age, shall sign a register, which the
36 law enforcement agency is required to maintain, of
37 persons applying to view the CD-ROM or other
38 electronic medium, and shall sign a statement, on a form
39 provided by the Department of Justice, stating that the
40 applicant is not a registered sex offender, that he or she



1 understands the purpose of the release of information is
2 to allow members of the public to protect themselves and
3 their children from sex offenders, and he or she
4 understands it is unlawful to use information obtained
5 from the CD-ROM or other electronic medium to
6 commit a crime against any registrant or to engage in
7 illegal discrimination or harassment of any registrant. The
8 signed statement shall be maintained in a file in the law
9 enforcement agency's office.

10 (B) The records of persons requesting to view the
11 CD-ROM or other electronic medium are confidential,
12 except that a copy of the applications requesting to view
13 the CD-ROM or other electronic medium may be
14 disclosed to law enforcement agencies for law
15 enforcement purposes.

16 (C) Any information identifying the victim by name,
17 birth date, address, or relationship to the registrant shall
18 be excluded from the CD-ROM or other electronic
19 medium.

20 (5) (A) The income from the operation of the "900"
21 telephone number shall be deposited in the Sexual
22 Predator Public Information Account, which is hereby
23 established within the Department of Justice for the
24 purpose of the implementation of this section by the
25 Department of Justice, including all actual and
26 reasonable costs related to establishing and maintaining
27 the information described in subdivision (a) and the
28 CD-ROM or other electronic medium described in this
29 subdivision.

30 (B) The moneys in the Sexual Predator Public
31 Information Account shall consist of income from the
32 operation of the "900" telephone number program
33 authorized by this section, proceeds of the loan made
34 pursuant to Section 6 of the act adding this section, and
35 any other funds made available to the account by the
36 Legislature. Moneys in the account shall be available to
37 the Department of Justice upon appropriation by the
38 Legislature for the purpose specified in subparagraph
39 (A).

(C) When the “900” telephone number is called, a preamble shall be played before charges begin to accrue. The preamble shall run at least the length of time required by federal law and shall provide the following information:

(i) Notice that the caller’s telephone number will be recorded.

(ii) The charges for use of the “900” telephone number.

(iii) Notice that the caller is required to identify himself or herself to the operator.

(iv) Notice that the caller is required to be 18 years of age or older.

(v) A warning that it is illegal to use information obtained through the “900” telephone number to commit a crime against any registrant or to engage in illegal discrimination or harassment against any registrant.

(vi) Notice that the caller is required to have the birth date, California driver’s license or identification number, social security number, or address or other identifying information regarding the person about whom information is sought in order to achieve a positive identification of that person.

(vii) A statement that the number is not a crime hotline and that any suspected criminal activity should be reported to local authorities.

(viii) A statement that the caller should have a reasonable suspicion that a person is at risk.

(D) The Department of Justice shall expend no more than six hundred thousand dollars (\$600,000) per year from any moneys appropriated by the Legislature from the account.

(b) (1) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to, any other punishment, by a five-year term of imprisonment in the state prison.

(2) Any person who, without authorization, uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other

1 penalty or fine imposed, a fine of not less than five
2 hundred dollars (\$500) and not more than one thousand
3 dollars (\$1,000).

4 (c) The record of the compilation of offender
5 information on each CD-ROM or other electronic
6 medium distributed pursuant to this section shall be used
7 only for law enforcement purposes and the public safety
8 purposes specified in this section and Section 290. This
9 record shall not be distributed or removed from the
10 custody of the law enforcement agency that is authorized
11 to retain it. Information obtained from this record shall be
12 disclosed to a member of the public only as provided in
13 this section or Section 290, or any other statute expressly
14 authorizing it.

15 Any person who copies, distributes, discloses, or
16 receives this record or information from it, except as
17 authorized by law, is guilty of a misdemeanor, punishable
18 by imprisonment in the county jail not to exceed six
19 months or by a fine not exceeding one thousand dollars
20 (\$1,000), or by both. This subdivision shall not apply to a
21 law enforcement officer who makes a copy as part of his
22 or her official duties in the course of a criminal
23 investigation, court case, or as otherwise authorized by
24 subdivision (n) of Section 290.

25 Notwithstanding Section 6254.5 of the Government
26 Code, disclosure of information pursuant to this section is
27 not a waiver of exemptions under Chapter 3.5
28 (commencing with Section 6250) of Title 1 of Division 7
29 of the Government Code and does not affect other
30 statutory restrictions on disclosure in other situations.

31 (d) Unauthorized removal or destruction of the
32 CD-ROM or other electronic medium from the offices of
33 any law enforcement agency is a misdemeanor,
34 punishable by imprisonment in a county jail not to exceed
35 one year or by a fine not exceeding one thousand dollars
36 (\$1,000), or both.

37 (e) (1) A person is authorized to use information
38 disclosed pursuant to this section only to protect a person
39 at risk.

1 This section shall not affect authorized access to, or use
2 of, information pursuant to, among other provisions,
3 Sections 11105 and 11105.3 of this code, Section 226.55 of
4 the Civil Code, Sections 777.5 and 14409.2 of the Financial
5 Code, Sections 1522.01 and 1596.871 of the Health and
6 Safety Code, and Section 432.7 of the Labor Code.

7 (2) Except as authorized under paragraph (1) or any
8 other provision of law, use of any of the following
9 information disclosed pursuant to this section is
10 prohibited:

11 (A) Health insurance.

12 (B) Insurance.

13 (C) Loans.

14 (D) Credit.

15 (E) Employment.

16 (F) Education, scholarships, or fellowships.

17 (G) Housing or accommodations.

18 (H) Benefits, privileges, or services provided by any
19 business establishment.

20 (3) (A) Any use of information disclosed pursuant to
21 this section for purposes other than those provided by
22 paragraph (1) of subdivision (e) or in violation of
23 paragraph (2) of subdivision (e) shall make the user liable
24 for the actual damages, and any amount that may be
25 determined by a jury or a court sitting without a jury, not
26 exceeding three times the amount of actual damage, and
27 not less than two hundred fifty dollars (\$250), and
28 attorney's fees, exemplary damages, or a civil penalty not
29 exceeding twenty-five thousand dollars (\$25,000).

30 (B) Whenever there is reasonable cause to believe
31 that any person or group of persons is engaged in a
32 pattern or practice of misuse of the "900" telephone
33 number in violation of paragraph (2) of subdivision (e),
34 the Attorney General, any district attorney, or city
35 attorney, or any person aggrieved by the misuse of that
36 number is authorized to bring a civil action in the
37 appropriate court requesting preventive relief, including
38 an application for a permanent or temporary injunction,
39 restraining order, or other order against the person or
40 group of persons responsible for the pattern or practice

1 of misuse. The foregoing remedies shall be independent
2 of any other remedies or procedures that may be
3 available to an aggrieved party under other provisions of
4 law, including Part 2 (commencing with Section 43) of
5 Division 1 of the Civil Code.

6 (f) This section shall not be deemed to authorize the
7 publication, distribution, or disclosure of the address of
8 any person about whom information can be published,
9 distributed, or disclosed pursuant to this section.

10 (g) Community notification shall be governed by
11 subdivisions (m) and (n) of Section 290.

12 (h) The Department of Justice shall submit to the
13 Legislature an annual report on the operation of the
14 “900” telephone number required by paragraph (3) of
15 subdivision (a) on July 1, 1996, July 1, 1997, and July 1,
16 1998. The annual report shall include all of the following:

17 (1) Number of calls received.

18 (2) Amount of income earned per year through
19 operation of the “900” telephone number.

20 (3) A detailed outline of the amount of money
21 expended and the manner in which it was expended for
22 purposes of this section.

23 (4) Number of calls that resulted in an affirmative
24 response and the number of calls that resulted in a
25 negative response with regard to whether a named
26 individual was listed pursuant to subdivision (a).

27 (5) Number of persons listed pursuant to subdivision
28 (a).

29 (6) A summary of the success of the “900” telephone
30 number program based upon selected factors.

31 (i) The “900” telephone number program authorized
32 by this section shall terminate operation on January 1,
33 1998.

34 (j) Law enforcement agencies, employees of law
35 enforcement agencies, and state officials shall be immune
36 from liability for good faith conduct under this section.

37 (k) On or before July 1, 2000, the Department of
38 Justice shall make a report to the Legislature concerning
39 the changes to the operation of the “900” telephone
40 number program made by the amendments to this

1 section by Chapter 908 of the Statutes of 1996. The report
2 shall include all of the following:

3 (1) Number of calls received by county.

4 (2) Number of calls that resulted in an affirmative
5 response and the number of calls that resulted in a
6 negative response with regard to whether a named
7 individual was listed pursuant to subdivision (a).

8 (3) Number of persons listed pursuant to subdivision
9 (a).

10 (4) Statistical information concerning prosecutions of
11 persons for misuse of the “900” telephone number
12 program, including the outcomes of those prosecutions.

13 (5) A summary of the success of the “900” telephone
14 number based upon selected factors.

15 (l) The registration and public notification provisions
16 of this section are applicable to every person described in
17 these sections, without regard to when his or her crimes
18 were committed or his or her duty to register pursuant to
19 this section arose, and to every offense described in these
20 sections, regardless of when it was committed.

21 (m) This section shall become operative on July 1,
22 1995, and shall become inoperative on January 1, 1999,
23 and as of that date is repealed unless a later enacted
24 statute, which becomes effective on or before January 1,
25 1999, deletes or extends the dates on which it becomes
26 inoperative and is repealed.

27 SEC. 3. The amendments to Section 290 of the Penal
28 Code made by Section 1 of this act shall apply to offenses
29 committed on or after the effective date of this act.

30 SEC. 4. No reimbursement is required by this act
31 pursuant to Section 6 of Article XIII B of the California
32 Constitution because the only costs that may be incurred
33 by a local agency or school district will be incurred
34 because this act creates a new crime or infraction,
35 eliminates a crime or infraction, or changes the penalty
36 for a crime or infraction, within the meaning of Section
37 17556 of the Government Code, or changes the definition
38 of a crime within the meaning of Section 6 of Article
39 XIII B of the California Constitution.

1 Notwithstanding Section 17580 of the Government
2 Code, unless otherwise specified, the provisions of this act
3 shall become operative on the same date that the act
4 takes effect pursuant to the California Constitution.

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